

I[3]

## Contempt of court

### Charges

I[3.1]

- (a) Wilfully did insult AB being a justice of the peace (or a witness before the court, or an officer of the court, or a solicitor or counsel having business before the court) during his sitting or attendance in court or when he was going to or returning from the court; or

I[3.2]

- (b) wilfully interrupted the proceedings of a magistrates' court; or

I[3.3]

- (c) wilfully misbehaved in a magistrates' court.

Contempt of Court Act 1981, s 12.

I[3.4]

**Maximum penalty.** Fine of level 4 and one month. Proceedings under s 12: offender may be ordered to be taken into custody by an officer of the court or a constable and detained until the rising of the court in addition to or instead of the penalty mentioned above. A person under 18 years may not be committed for contempt.

### Legal notes

I[3.5]

**Wilfully insult.** The word 'insult' has to be given its ordinary English meaning. A person who had *threatened* a defendant had not 'insulted' him and was not in breach of s 12, (*R v Havant Justices, ex p Palmer* (1985)).

I[3.6]

**Officer of the court.** This term is not defined in the Act. It will apply to the justices' clerk and his staff, presumably whether or not they are concerned in the particular proceedings in which the insult occurs. If there is any doubt, the matter could certainly be resolved by simply alleging misbehaviour in court.

I[3.7]

**Procedure.** See *Practice Direction (Magistrates' Courts: Contempt)* 2001. By the nature of such proceedings, feelings may be running high and it is a grave matter to punish someone for contempt of court. Accordingly magistrates should be careful not to act in haste. The court should allow time for reflection. If necessary the case

can be put back to the end of the court list. If the offender is removed to the cells, he should have the opportunity of speaking to his solicitor or receiving other legal advice (legal representation is available for contempt proceedings). The offender should always be given the opportunity to apologise to the court and it may be that a genuine apology together with the brief period spent in the cells may suffice. If it is necessary to punish the offender imprisonment should be the last resort. Where a person has been in prison, for example, because he refuses to apologise he may apply subsequently to the magistrates to purge his contempt by apologising and the magistrates may then order his release from custody.

In the case of a contested contempt the overall trial process must be in accordance with Art 6 and this may mean involving a different bench to try the issue.

I[3.8]

**Where the disorder in court is so overwhelming** magistrates should retire immediately and allow the police to restore order. Where the offenders are subsequently dealt with, they should be dealt with individually.

I[3.9]

**Witnesses.** In addition to the powers outlined above, where a witness refuses to take the oath or to answer a question, he may be committed to prison for a period of up to one month (and ordered to pay a fine on level 4). He may be released immediately he changes his mind and decides to co-operate with the court. This advice may ensure his compliance.

I[3.10]–I[3.15]

**Defendants.** Disorderly defendants may be dealt with as outlined above. However, a court is naturally reluctant to deal with the case in the absence of a defendant. Accordingly, if the defendant has to be ejected the court should carefully consider adjourning the case for a ‘cooling off’ period. The more serious the case the less appropriate it will be to proceed in the defendant’s absence. The defendant should be informed that he will be readmitted to the court any time he is prepared to conduct himself properly.



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